

## **REMARKS**

Applicants gratefully acknowledge the Examiner's indication that examination has been extended to the entire scope of the claimed subject matter, and, further, that claims 4-12, 20, 26, and 27 recite allowable subject matter.

Claim 1 is amended to recite that the cations  $M^{a+}$  is selected from lithium, sodium, magnesium, aluminum, nitrosyl, nitryl and organic cations. Thus, claim 1 is amended to refer to the cations recited in claims 4-7 and sodium. It is noted that claims 4-7 are indicated as reciting allowable subject. As result to the amendment of claim 1, claim 2 is cancelled, and claim 3 is amended to delete potassium.

Claims 7 and 10 are amended to depend from claim 1, rather than claim 6. Also, claim 10 is amended to correct an obvious typographical error. Claim 12 is amended to depend from claim 11 rather than claim 10. Claim 14 is amended to delete superfluous text. Claim 20 is amended to provide a period at the end of the claim. Claims 25 and 32 are amended to delete the term "derivatives" and to refer to specific fluorinated solvents. Claims 26, 27, 28, 30 and 31 are amended to use consistent language. In addition, claims 28, 30 and 31 are amended to depend claim 26, rather than claim 25. Claim 33 is amended to expressly indicate that the improvement refers to each of the items recited in the preamble. In addition, claim 33 is amended to delete the optional feature.

New claim 41 corresponds to original claim 18 rewritten in independent form. New claim 42 corresponds to original claim 19 rewritten in independent form. New claim 43 corresponds to original claim 1, except that subscript x is defined as being 3-12. New claim 44 corresponds to original claim 1, except that subscript y is defined as being 1-2. Finally, new claim 45 corresponds to original claim 1, except that  $R_1$  and  $R_2$  are defined as each independently being fluorine, alkyl having 1-8 carbon atoms, fluorine having 1-8 carbon atoms, or perfluoroalkyl having 1-8 carbon atoms.

## **Objection to the Disclosure**

Pursuant to the Examiner's request, page 27 of the specification is amended to delete the section entitled "Brief Description of the Drawings". Withdrawal of the objection is respectfully requested.

## **Objection to the Claims**

In the Office Action, claims 7 and 10 are objected to with regards to the language

used to recite the Markush groups. Both claims 7 and 10 recite Markush groups using language of the form “R is A, B, C, or D.” Language such as “R is A, B, C, or D” is appropriate Markush language. See, e.g., MPEP § 2173.05(h)(I).

Claim 8 is objected to on grounds that it allegedly does not further define the subject matter of claim 7. However, this incorrect. In the objection, it is stated that claim 8 does not require a group R<sup>7</sup>, but merely defines what A can be. However, the definition of group A in claim 7 is broader than the definition of group a in claim 8. Thus, the overall literal scope of claim 8 is narrower than the overall literal scope of claim 7, i.e., claim 8 further defines the subject matter of claim 7, even if claim 8 does not require a group R<sup>7</sup>.

As indicated above, claims 7 and 10 are amended to depend claim 1, rather than 6. Claim 12 is amended to depend from 11 rather 10. Claims 28, 30 and 31 are amended to depend from claim 26 rather than 25.

Claims 34-40 are objected for not further limiting claim 33. The reason presented in the claim objection is that the preamble of claim 33 is directed to multiple inventions. However, this is does not in anyway suggest that claims 34-40 do not further limit claim 33. For example, the preamble of claim 33 refers to an electrolyte, primary battery, secondary battery, capacitor, supercapacitor, or galvanic cell. Conversely, claim 34, for example, recites an electrolyte of claim 33. Thus, clearly the literal scope of the subject matter of claim 34 is narrower than the literally scope of the subject matter of claim 33.

In view of the above remarks, withdrawal of the objection to claims is respectfully requested.

#### **Rejection under 35 USC § 112, second paragraph**

Claims 25 and 28-40 are rejected under 35 USC § 112, second paragraph, as allegedly being indefinite. This rejection is respectfully traversed.

In the rejection it is argued that the reference to “at least partially fluorinated derivative of any of these solvents” is indefinite, allegedly because it is unclear what are the fluorinated derivatives. It is respectfully submitted that one of ordinary skill in the art upon reading the claim would clearly recognize that the partially fluorinate derivatives referred to are fluorinated forms of those solvents named in the claim. In any event, claims 25 and 32 are amended to delete the term “derivatives.”

Claims 28, 30 and 31 are amended to depend from the claim 26. Claim 26 provides antecedent basis for “wherein b is a homopolymer or copolymer”, as recited in claims 28 and 29 and “said polymer” is recited in claim 30. Claim 31 is amended to replace the pronoun

“it” with the term “mixture” as recited in the preamble of claim 26.

With regards to claim 33, it is argued that the preamble is directed to multiple inventions and as a result, it is unclear which invention comprises the limitation recited in the body of the claim. Applicants disagree. Claim 33 as originally presented clearly indicates that the improvement is directed to each of the items recited in the preamble. In any event, claim 33 is amended to expressly recite that the improvement relates to each of the items recited in the preamble.

In addition, claim 33 is amended to delete reference to the optional feature. However, it is respectfully submitted that the recitation of the optional feature was sufficiently clear to one of ordinary skill in the art. One of the ordinary skill in the art can readily determine whether a given electrolyte, primary battery, secondary battery, capacitor, supercapacitor or galvanic cell contains a further conductive salt and/or a further additive. In accordance with well settled law, breadth is not indefiniteness.

In view of the above remarks, withdrawal of the rejection under 35 USC § 112, second paragraph, is respectfully requested.

#### **Rejection under 35 USC § 102(b)**

Claims 1-3, 13-17, 21-25 and 33-35 are rejected as allegedly being anticipated by Fild et al. (1987). This rejection is respectfully traversed.

Fild et al. discloses a methylene-diphosphorous halides. See, e.g., the English Abstract at page 109 of the article. At the bottom of page 16 of the article, which is written in German, reference is made to “Das Salz K<sub>2</sub>[F<sub>5</sub>PCH<sub>2</sub>PF<sub>5</sub>].” This salt does not anticipate applicants’ claimed invention. Moreover, nothing within the rejection suggests that Fild et al. provides any motivation that would lead one of ordinary skill in the art to modify this potassium salt in such a manner as to arrive at salt in accordance with applicants’ claim 1.

In view of the above remarks, it is respectfully submitted that Fild et al. fails to anticipate applicants’ claimed invention. Withdrawal of the rejection under 35 USC § 102(b) is respectfully requested.

#### **Rejection under 35 USC § 102(e)**

Claims 1, 18, 19, 21 and 33-34 are rejected as allegedly being anticipated in view of Schmidt et al. (US 2002/0015884 A1). This rejection is respectfully traversed.

Schmidt et al. was published on February 7, 2002, i.e., prior to applicants’ US filing date of February 25, 2002, but subsequent to applicants’ priority date. Schmidt et al. was

filed in the US on June 11, 2001. This date is also prior to applicants' US filing date, but subsequent to applicants' priority date.

Enclosed herewith is an English translation of applicants' priority document, German Patent Application DE 10109032.3, filed in Germany on February 24, 2001. In light of the filing of the certified translation of the priority document, it is respectfully submitted that Schmidt et al. is no longer prior art with respect to applicants' invention. Submission of the certified English Translation is not to be construed as in acquiescence to any ground of rejection.

In view of the above remarks, withdrawal of the rejection under 35 USC § 102(e) is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



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